IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No. 1429 of 2007.

Date of decision: 12.9.2007

Janam Singh ... Petitioner

Versus

State of H.P. & Ors. … Respondents

Coram :

The Hon'ble Mr. Justice Deepak Gupta, Judge.

The Hon'ble Mr. Justice V.K. Ahuja, Judge.

Whether approved for reporting?[1]

For the Petitioner: Mr. Lokender Paul Thakur, Advocate.

For the respondents: Mr. M.S. Chandel, Advocate General with Mr. Ashutosh Burathoki, Additional Advocate General.

Per V.K. Ahuja, J.:

This judgment shall dispose of the writ petition filed by the petitioner under Articles 226/227 of the Constitution of India against the orders of the learned H.P. State Administrative Tribunal dated 18.6.2007 passed in O.A. No. 2384/2006 as well as in Review Petition No. 84/2007 dated 21.8.2007.

Briefly stated the facts of the case are that the petitioner was working as Range Officer in Bharmour Range and he was transferred to Tikrigarh of Chamba Forest Division vide order dated 12.4.2006. The petitioner was not relieved for a long period of about two months and respondent No. 3 directed Divisional Forest Officer, Bharmour vide letter dated 9.6.2006 to relieve the petitioner. The

[1]Whether reporters of Local Papers may be allowed to see the judgment?

petitioner joined at Range Office Tikrigarh and submitted his joining report to the concerned Divisional Forest Officer on 15.6.2006. It appears that vide letter dated 9.6.2006 respondent No. 2 modified the transfer order of the petitioner from Forest Range Tikrigarh, District Chamba as Range Officer Khajiar Wildlife Range of Chamba. A letter was written by the Divisional Forest Officer, Chamba to the petitioner relieving him from Tikrigarh on 1.7.2006 enclosing therewith the copy of the fresh transfer order. The petitioner challenged the said order of transfer before the State Administrative Tribunal, Shimla. The said Original Application was dismissed by the State Administrative Tribunal vide its order dated 18.6.2007. A Review Petition was also filed by the petitioner before the State Administrative Tribunal which was dismissed by the said Administrative Tribunal vide its order dated 21.8.2007. These orders passed by the State Administrative Tribunal have been challenged by the petitioner by filing the present writ petition.

We have heard the learned counsel for the parties.

The submissions made by the learned counsel for the petitioner were that petitioner was transferred from Tikrigarh to Khajiar within 15 days of the joining at Tikrigarh. He submitted that the said orders were passed at the instance of the local M.L.A. and he also alleged malafide qua fresh transfer orders passed by respondent No. 3. However, a perusal of the Original Application filed by the petitioner under Section 19 of the Administrative Tribunal Act, 1985 shows that neither the petitioner had taken this ground specifically in the Original Application filed before the said Administrative Tribunal, nor the said M.L.A. was made a party and until and unless the malafides are alleged and the person concerned is made a party, this plea cannot be considered by this Court particularly when no such allegations were

made before the State Administrative Tribunal also. The second ground taken during the course of arguments was that the charge was handed over to the Deputy Range Officer as per the order passed by the Divisional Forest Officer concerned and the charge was handed over to the Junior Officer so that he could exercise the powers of Forest Ranger. There is nothing in the Original Application filed by the petitioner before the State Administrative Tribunal that this specific ground was taken and the concerned Deputy Ranger was made a party to the petition. A perusal of the said order passed by the Divisional Forest Officer, Chamba on 27.4.2006 shows that the Divisional Forest Officer observed that since the petitioner has not joined the duties as Range Officer, Tikrigarh till date and previous incumbent Shri B.R. Kaushal was to retire on attaining the age of superannuation on 30.4.2006, therefore, the said order was passed that the charge was handed over to the Deputy Ranger. It is for the Administrative Officer to consider as to whom the charge was to be handed over. The said order does not suffer from any illegality and has not been specifically challenged also and the same was passed since the post of Forest Ranger was likely to be vacant after 30.4.2006 and the petitioner had not joined in place of the person who was retiring.

The State Administrative Tribunal had considered this plea that the order was passed by the Department in the public interest after obtaining approval of the competent authority and in view of the facts of the case, no case is made out for interfering in both the orders passed by the State Administrative Tribunal, which call for no interference by this Court and as such, there is no merit in the writ petition, which is dismissed accordingly. Parties are left to bear their own costs.

CMPs No. 2327 and 2328 of 2007:

In view of the dismissal of the main petition, both these applications have become infructuous.

(Deepak Gupta),
Judge

(V.K. Ahuja),
Judge

September 12, 2007
(BSS)